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cc: Bill Franks/GOVERNOR/OK, Guy R Wood/GOVERNOR/OK
From: Duchess Bartmess/GOVERNOR/OK
Date: 10/25/96 12:40:13 PM EDT
Subject: Property Rights Lawsuit

Dean
any thoughts?
HJH

Gentlemen:

I have received a Memorandum regarding a request for amici curiae briefs from states. The Memorandum was generated by Mountain States Legal Foundation. Here is the language of that Memorandum.

There may now be time for you to file a supportive brief regarding this very important property rights case. As you will recall, the Stupak-Thrall case involves the owners of lake front property in the Upper Peninsula of Michigan who were told by the U.S. Forest Service that their property was included within a federal wilderness area, notwithstanding contrary language in federal statute. In addition, they were advised that their property rights, as established by the State of Michigan, were not protected by the "valid existing rights" protection enacted into federal law.

This very important case involves several important matters, including whether the Forest Service may interpret the phrase "valid existing rights," not only contrary to the law of the State of Michigan but also so as to render that phrase "meaningless." In addition, the case addresses whether the Property Clause of the Constitution ("Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States") allows the Forest Service to regulate privately owned or state owned property because of its proximity to federal land.

We have been advised of a number of entities that wish to file amici curiae briefs and would be pleased to assist you in finding a brief in which you may join.

If you have any questions regarding this very important case, please call me, William Perry Pendley, or Todd S. Welch at 303/292-1980.

If any of you or your legal beagles are interested in this issue and want to get involved, please give me a call. My inclination, from my limited scope of knowledge and information is not to jump in. However, I know a lot of you are involved in problems we may not be aware of, so I am open to enlightenment.

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